



General Assembly

January Session, 2007

***Raised Bill No. 7224***

LCO No. 4418

\*04418\_\_\_\_\_CE\_\*

Referred to Committee on Commerce

Introduced by:  
(CE)

***AN ACT CONCERNING THE INSURANCE REINVESTMENT PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-88a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) As used in this section:

4 (1) "Facility" means an insurance business facility;

5 (2) "Insurance business" means a business engaged in the business  
6 of insuring risks [or of providing services necessary to the business of  
7 insuring risks] and belonging to major industry group numbered 524  
8 under the North American Industrial Classification System  
9 administered and promulgated by the Bureau of Census of the United  
10 States Department of Commerce, or capable of demonstrating to the  
11 satisfaction of the commissioner that the business is engaged in  
12 providing services necessary to the business of insuring risks;

13 (3) "New job" means a job that did not exist in the business of a  
14 subject insurance business in this state prior to the subject insurance

15 business's application to the commissioner for an eligibility certificate  
16 under this section for a new facility and that is filled by a new  
17 employee, but does not include a job created when an employee is  
18 shifted from an existing location of the subject insurance business in  
19 this state to a new facility;

20 (4) "New employee" means a person hired by a subject insurance  
21 business to fill a position for a new job or a person shifted from an  
22 existing location of the subject insurance business outside this state to a  
23 new facility in this state, provided (A) in no case shall the total number  
24 of new employees allowed for purposes of this credit exceed the total  
25 increase in the taxpayer's employment in this state, which increase  
26 shall be the difference between (i) the number of employees employed  
27 by the subject insurance business in this state at the time of application  
28 for an eligibility certificate to the commissioner plus the number of  
29 new employees who would be eligible for inclusion under the credit  
30 allowed under this section without regard to this calculation, and (ii)  
31 the highest number of employees employed by the subject insurance  
32 business in this state in the year preceding the subject insurance  
33 business's application for an eligibility certificate to the commissioner,  
34 and (B) a person shall be deemed to be a "new employee" only if such  
35 person's duties in connection with the operation of the facility are on a  
36 regular, full-time, or equivalent thereof, and permanent basis;

37 (5) "New facility" means a facility which (A) is acquired by, leased  
38 to, or constructed by, a subject insurance business on or after the date  
39 of the subject insurance business's application to the commissioner for  
40 an eligibility certificate under this section, unless, upon application of  
41 the subject insurance business and upon good and sufficient cause  
42 shown, the commissioner waives the requirement that such activity  
43 take place after the application, and (B) was not in service or use  
44 during the one-year period immediately prior to the date of the subject  
45 insurance business's application to said commissioner for an eligibility  
46 certificate under this section, unless upon application of the subject  
47 insurance business and upon good and sufficient cause shown, the

48 commissioner consents to waiving the one-year period;

49 (6) "Related person" means (A) a corporation, limited liability  
50 company, partnership, association or trust controlled by the taxpayer  
51 or subject insurance business, as the case may be, (B) an individual,  
52 corporation, limited liability company, partnership, association or trust  
53 that is in control of the taxpayer or subject insurance business, as the  
54 case may be, (C) a corporation, limited liability company, partnership,  
55 association or trust controlled by an individual, corporation, limited  
56 liability company, partnership, association or trust that is in control of  
57 the taxpayer or subject insurance business, as the case may be, or (D) a  
58 member of the same controlled group as the taxpayer or subject  
59 insurance business, as the case may be. For purposes of this section,  
60 "control", with respect to a corporation, means ownership, directly or  
61 indirectly, of stock possessing fifty per cent or more of the total  
62 combined voting power of all classes of the stock of such corporation  
63 entitled to vote. "Control", with respect to a trust, means ownership,  
64 directly or indirectly, of fifty per cent or more of the beneficial interest  
65 in the principal or income of such trust. The ownership of stock in a  
66 corporation, of a capital or profits interest in a partnership or  
67 association or of a beneficial interest in a trust shall be determined in  
68 accordance with the rules for constructive ownership of stock  
69 provided in Section 267(c) of the Internal Revenue Code of 1986, or any  
70 subsequent corresponding internal revenue code of the United States,  
71 as from time to time amended, other than paragraph (3) of such  
72 section;

73 (7) "Moneys of the taxpayer" means all amounts invested in a fund,  
74 directly or indirectly, on behalf of a taxpayer, including but not limited  
75 to (A) direct investments made by the taxpayer, and (B) loans made to  
76 the fund for the benefit of the taxpayer which loans are guaranteed by  
77 the taxpayer, provided no amounts represented by any such loan shall  
78 be used for the purpose of obtaining any tax credit by any person  
79 making such loan against any tax levied by this state;

80 (8) "Income year" means (A) with respect to corporations subject to  
81 taxation under chapter 208, the income year as determined under said  
82 chapter, (B) with respect to insurance companies, hospital and medical  
83 services corporations subject to taxation under chapter 207, the income  
84 year as determined under said chapter, and (C) with respect to  
85 taxpayers subject to taxation under chapter 229, the taxable year  
86 determined under said chapter;

87 (9) "Taxpayer" means any person as defined in section 12-1, whether  
88 or not subject to any taxes levied by this state; [and]

89 (10) "Commissioner" means the Commissioner of Economic and  
90 Community Development; and

91 (11) "Insurance business investment" means all amounts invested in  
92 an insurance business by a fund manager.

93 (b) On or before July 1, 2000, the commissioner shall register  
94 managers of funds created for the purpose of investing in insurance  
95 businesses. Any manager registered under this subsection shall have  
96 its primary place of business in this state. Each applicant shall submit  
97 an application under oath to the commissioner to be registered and  
98 shall furnish evidence satisfactory to the commissioner of its financial  
99 responsibility, integrity, and professional competence to manage  
100 investments. Failure to maintain adequate fiduciary standards shall  
101 constitute cause for the commissioner to revoke, after hearing, any  
102 registration granted under this section. The fund manager shall make a  
103 report on or before the first day of March in each year, under oath, to  
104 the Commissioner of Revenue Services specifying the name, address  
105 and Social Security number or employer identification number of each  
106 investor, the year during which each investment was made by each  
107 investor, the amount of each investment and a description of the fund's  
108 investment objectives and relative performance.

109 (c) There shall be allowed as a credit against the tax imposed under  
110 chapter 207, 208 or 229 or section 38a-743 an amount equal to the

111 following percentage of the moneys of the taxpayer invested through a  
 112 fund manager in an insurance business with respect to the following  
 113 income years of the taxpayer: (1) With respect to the income year in  
 114 which the investment in the subject insurance business was made and  
 115 the two next succeeding income years, zero per cent; (2) with respect to  
 116 the third full income year succeeding the year in which the investment  
 117 in the subject insurance business was made and the three next  
 118 succeeding income years, ten per cent; and (3) with respect to the  
 119 seventh full income year succeeding the year in which the investment  
 120 in the subject insurance business was made and the two next  
 121 succeeding income years, twenty per cent. The sum of all tax [credit]  
 122 credits granted pursuant to the provisions of this section shall not  
 123 exceed fifteen million dollars with respect to investments made by a  
 124 fund or funds in any single insurance business, and with respect to all  
 125 investments made by a fund shall not exceed the total amount  
 126 originally invested in such fund. Any fund manager may apply to the  
 127 [Commissioner of Economic and Community Development]  
 128 commissioner for a credit that exceeds the limitations established by  
 129 this subsection. The commissioner shall evaluate the benefits of such  
 130 application and make recommendations to the General Assembly if  
 131 [he] said commissioner determines that the proposal would be of  
 132 economic benefit to the state.

133 (d) No insurance business investment shall be deemed eligible for  
 134 the tax credit provided pursuant to this section unless such insurance  
 135 business investment shall, in the judgment of the commissioner, be of  
 136 sufficient size, by itself or in conjunction with related new investments,  
 137 to generate a substantial return to the state economy.

138 (e) (1) The commissioner shall determine whether the insurance  
 139 business in which the proposed investment is to be made (A) is an  
 140 insurance business, (B) whether the insurance business and its growth  
 141 plan are economically viable only with use of the insurance  
 142 reinvestment tax credit program, (C) the effects of the project on the  
 143 municipality where the investment will be made, (D) whether the

144 project would provide a net benefit to economic development and  
145 employment opportunities in the state, and (E) whether the project will  
146 conform to the state plan of conservation and development. The  
147 commissioner may require the applicant to submit such additional  
148 information as may be necessary to evaluate the application.

149 (2) The commissioner shall prepare (A) a revenue impact  
150 assessment that estimates the state and local revenue that would be  
151 generated as a result of the insurance business investment in a project,  
152 and (B) an economic feasibility study of such project. The  
153 commissioner may retain such persons as the commissioner deems  
154 appropriate to conduct such revenue impact assessment or economic  
155 feasibility study.

156 (3) The commissioner may, upon consideration of the insurance  
157 business investment certification request, the revenue impact  
158 assessment, the economic feasibility study and any additional  
159 information that the commissioner requires concerning a proposed  
160 investment, approve a tax credit. The amount of the tax credit so  
161 approved shall not exceed the amount of state revenue that will be  
162 generated according to the revenue impact assessment prepared  
163 pursuant to this subsection.

164 (4) The commissioner shall require the fund manager to reimburse  
165 the commissioner for all or any part of the cost of the revenue impact  
166 assessment, economic feasibility study or other activities that may be  
167 performed in the exercise of due diligence pursuant to this subsection.

168 [(d)] (f) The credit allowed by this section may be claimed only by a  
169 taxpayer who has invested in an insurance business through a fund (1)  
170 which has a total asset value of not less than thirty million dollars for  
171 the income year for which the initial credit is taken, [;] (2) has not less  
172 than three investors who are not related persons with respect to each  
173 other or to any insurance business in which any investment is made  
174 other than through the fund at the date the investment is made, and (3)  
175 which invests only in insurance businesses that are not related persons

176 with respect to each other.

177 [(e)] (g) The credit allowed by this section may be claimed only with  
 178 respect to a subject insurance business which (1) occupies the new  
 179 facility for which an eligibility certificate has been issued by the  
 180 commissioner and with respect to which the certification required  
 181 under subsection [(g)] (i) of this section has been issued as its home  
 182 office, and (2) employs not less than twenty-five per cent of its total  
 183 work force in new jobs.

184 [(f)] (h) The credit allowed by this section may be claimed only with  
 185 respect to an income year for which a certification of continued  
 186 eligibility required under subsection [(g)] (i) of this section has been  
 187 issued. If, with respect to any year for which a tax credit is claimed,  
 188 any subject insurance business ceases at any time to employ at least  
 189 twenty-five per cent of its total work force in new jobs, then, except as  
 190 provided in subsection [(g)] (i) of this section, the entitlement to the  
 191 credit allowed by this section shall not be allowed for the taxable year  
 192 in which such employment ceases, and there shall not be a pro rata  
 193 application of the credit to such taxable year. [; provided, if the reason  
 194 for such cessation is the dissolution, liquidation or reorganization of  
 195 such insurance business in a bankruptcy or delinquency proceeding, as  
 196 defined in section 38a-905, the credit shall be allowed.]

197 [(g)] (i) (1) The commissioner, upon application, shall issue an  
 198 eligibility certificate for an insurance business occupying a new facility  
 199 in this state, [and] employing new employees and generating sufficient  
 200 state revenue at least equal to the proposed investment, after it has  
 201 been established, to [his] the commissioner's satisfaction, that subject  
 202 insurance business has complied with the provisions of this section.

203 (2) If the commissioner determines that such requirements have  
 204 been met as a result of transactions with a related person for other than  
 205 bona fide business purposes, [he] the commissioner shall deny such  
 206 application.

207       ~~(3)~~ The commissioner shall require the subject insurance business to  
 208       submit annually such information as may be necessary to determine  
 209       whether the appropriate occupancy and employment requirements  
 210       have been met at all times during an income year, and whether the  
 211       state revenue generated by such insurance business investment is  
 212       greater than, or equal to the total sum of tax credits claimed with  
 213       respect to the approved investment in the subject insurance business. If  
 214       the commissioner determines that such requirements have been so  
 215       met, [he] the commissioner shall issue a certification of continued  
 216       eligibility to that effect to the subject insurance business on or before  
 217       the first day of the third month following the close of the subject  
 218       insurance business's income year.

219       [(h)] (j) The commissioner shall, upon request, provide a copy of the  
 220       eligibility certificate and the certification required under subsection  
 221       [(g)] (i) of this section to the Commissioner of Revenue Services.

222       [(i)] (k) (1) If (A) the number of new employees on account of which  
 223       a taxpayer claimed the credit allowed by this section decreases to less  
 224       than twenty-five per cent of its total work force for more than sixty  
 225       days during any of the taxable years for which a credit is claimed, [(B)]  
 226       those employees are not replaced by other employees who have not  
 227       been shifted from an existing location of the subject insurance business  
 228       in this state and [(C)] the subject insurance business has relocated  
 229       operations conducted in the new facility to a location outside this state,  
 230       or (B) the state revenue generated by the insurance business  
 231       investment is not greater than or equal to the estimate of state revenue  
 232       made at the time such investment was approved, and the sum of all  
 233       state revenue generated by the insurance business is less than the  
 234       amount of the total sum of tax credits claimed with respect to the  
 235       approved investment in such insurance business, the taxpayer shall be  
 236       required to recapture a percentage, as determined under the  
 237       provisions of subdivision (2) of this subsection, of the credit allowed  
 238       under this section on its tax return and no subsequent credit shall be  
 239       allowed. If the credit claimed by the taxpayer under this section is

240 attributable to investments made in more than one insurance business,  
241 the credit recaptured and disallowed under this subsection shall be  
242 that portion of the credit attributable to the investment in the insurance  
243 business as described in subparagraphs (A) [to (C), inclusive, of  
244 subdivision (1) of this subsection] and (B) of this subdivision.

245 (2) If the taxpayer is required under the provisions of subdivision  
246 (1) of this subsection to recapture a portion of the credit during (A) the  
247 first year such credit was claimed, then ninety per cent of the credit  
248 allowed shall be recaptured on the tax return required to be filed for  
249 such year, (B) the second of such years, then sixty-five per cent of the  
250 credit allowed for the entire period of eligibility shall be recaptured on  
251 the tax return required to be filed for such year, (C) the third of such  
252 years, then fifty per cent of the credit allowed for the entire period of  
253 eligibility shall be recaptured on the tax return required to be filed for  
254 such year, (D) the fourth of such years, then thirty per cent of the credit  
255 allowed for the entire period of eligibility shall be recaptured on the  
256 tax return required to be filed for such year, (E) the fifth of such years,  
257 then twenty per cent of the credit allowed for the entire period of  
258 eligibility shall be recaptured on the tax return required to be filed for  
259 such year, and (F) the sixth or subsequent of such years, then ten per  
260 cent of the credit allowed for the entire period of eligibility shall be  
261 recaptured on the tax return required to be filed for such year. Any  
262 credit recaptured pursuant to this subsection shall not be in excess of  
263 the credit that would be allowed for the applicable investment. The  
264 Commissioner of Revenue Services may recapture such credits from  
265 the taxpayer who has claimed such credits. If the commissioner is  
266 unable to recapture all or part of such credits from such taxpayer, the  
267 commissioner may seek to recapture such credits from any taxpayer  
268 who has assigned such credits to another taxpayer. If the  
269 commissioner is unable to recapture all or part of such credits from  
270 any such taxpayer, the commissioner may recapture such credits from  
271 the fund.

272 [(3) The recapture provisions of this subsection shall not apply and

273 tax credits may continue to be claimed under this section if, for the  
274 entire period that the credit is applicable, such decrease in the  
275 percentage of total work force employed in this state does not result in  
276 an actual decrease in the number of persons employed by the subject  
277 insurance business in this state on a regular, full-time, or equivalent  
278 thereof, and permanent basis as compared to the number of new  
279 employees on account of which the taxpayer claimed the credit  
280 allowed by this section.]

281 [(j)] (l) The tax credit allowed by this section shall only be available  
282 for investments in funds that are not open to additional investments or  
283 investors beyond the amount subscribed at the formation of the fund.  
284 No credits shall be allowed under this section for investments in any  
285 fund created on or after July 1, 2000. No credit shall be allowed under  
286 this section for investments made in an insurance business through  
287 such fund after December 31, 2015.

288 [(k)] (m) (1) The Commissioner of Revenue Services may treat one  
289 or more corporations that are properly included in a combined  
290 corporation business tax return under section 12-223 as one taxpayer in  
291 determining whether the appropriate requirements under this section  
292 are met. Where corporations are treated as one taxpayer for purposes  
293 of this subsection, then the credit shall be allowed only against the  
294 amount of the combined tax for all corporations properly included in a  
295 combined return that, under the provisions of subdivision (2) of this  
296 subsection, is attributable to the corporations treated as one taxpayer.

297 (2) The amount of the combined tax for all corporations properly  
298 included in a combined corporation business tax return that is  
299 attributable to the corporations that are treated as one taxpayer under  
300 the provisions of this subsection shall be in the same ratio to such  
301 combined tax that the net income apportioned to this state of each  
302 corporation treated as one taxpayer bears to the net income  
303 apportioned to this state, in the aggregate, of all corporations included  
304 in such combined return. Solely for the purpose of computing such

305 ratio, any net loss apportioned to this state by a corporation treated as  
306 one taxpayer or by a corporation included in such combined return  
307 shall be disregarded.

308 [(l)] (n) Any taxpayer allowed a credit under this section may assign  
309 such credit to another person, provided such person may claim such  
310 credit only with respect to a calendar year for which the assigning  
311 taxpayer would have been eligible to claim such credit. The fund  
312 manager shall include in the report filed with the Commissioner of  
313 Revenue Services in accordance with subsection (b) of this section  
314 information requested by [the] said commissioner regarding such  
315 assignments, including the current holders of credits as of the end of  
316 the preceding calendar year.

317 [(m)] (o) No taxpayer shall be eligible for a credit under this section  
318 and either section 12-217e or section 12-217m for the same investment.  
319 No two taxpayers shall be eligible for any tax credit with respect to the  
320 same investment, employee or facility.

321 [(n)] (p) Any tax credit not used in the income year for which it was  
322 allowed may be carried forward for the five immediately succeeding  
323 income years until the full credit has been allowed.

324 (q) Not later than the first day of the third month following the close  
325 of the subject insurance business's income year in each year that credits  
326 allowed under this section are claimed by a taxpayer, the  
327 commissioner may conduct a study to estimate the state revenue that  
328 is currently being generated by the insurance business in which an  
329 insurance business investment is made, and an estimate of the state  
330 revenue that will be generated in the future by such insurance  
331 business. Such economic impact study shall determine whether the  
332 state revenue generated by such insurance business is equal to the  
333 estimate of state revenue made at the time the credit was approved. If  
334 the sum of all state revenue now or in the future generated by such  
335 business is less than the amount of the total sum of tax credits claimed  
336 with respect to the approved investment in such insurance business on

337 the date of such analysis, the commissioner may determine an  
338 appropriate recapture amount and may revoke the certificate of  
339 eligibility issued under subsection (i) of this section. The commissioner  
340 may retain such persons as the commissioner may deem appropriate  
341 to conduct such study, and may require the taxpayer or the fund  
342 manager that made such approved investment to reimburse the  
343 commissioner for all or any part of the cost of an economic impact  
344 study performed under this subsection.

345     ~~[(o)]~~ (r) The commissioner, with the approval of the Commissioner  
346 of Revenue Services and the Secretary of the Office of Policy and  
347 Management, may adopt regulations in accordance with chapter 54 to  
348 carry out the purposes of this section.

349     Sec. 2. Section 38a-88b of the general statutes is repealed and the  
350 following is substituted in lieu thereof (*Effective July 1, 2007*):

351     (a) The provisions of section 38a-88a of the general statutes, revision  
352 of 1958, revised to January 1, 1997, shall apply to any fund established  
353 prior to June 1, 1997, or to any fund which is formed on or after June 1,  
354 1997, in connection with a memorandum of understanding executed  
355 by and among the fund manager, the investors and either the  
356 Commissioner of Revenue Services or the Insurance Commissioner  
357 prior to June 1, 1997.

358     (b) The provisions of section 38a-88a, as amended by section 1 of  
359 public act 97-292, shall only apply to any fund established under  
360 section 38a-88a of the general statutes, revision of 1958, revised to  
361 January 1, 1997, to investments made by such a fund and to credits  
362 earned by such a fund if the fund manager of such fund notifies the  
363 Commissioner of Economic and Community Development that such  
364 fund wishes to be designated as a fund subject to said section 38a-88a,  
365 as amended by section 1 of public act 97-292.

366     (c) The provisions of section 38a-88a, as amended by this act, shall  
367 apply to any insurance business investments made, any funds

368 established and any fund managers approved on or after June 7, 1994,  
369 pursuant to said section 38a-88a.

370 [(c)] (d) Notwithstanding the provisions of subsection (a) of this  
371 section, the provisions of subsections (b) and [(l)] (n) of section 38a-88a,  
372 as amended by this act, [and subdivision (3) of subsection (i) of section  
373 38a-88a] shall be applicable to all funds.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	38a-88a
Sec. 2	<i>July 1, 2007</i>	38a-88b

***Statement of Purpose:***

To ensure that the state does not experience a net loss in tax revenue as a result of awarding credits pursuant to the Insurance Reinvestment Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*